

**UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

WALKER COUNTY HOSPITAL CORPORATION,
d/b/a HUNTSVILLE MEMORIAL HOSPITAL,

Debtor and Debtor in Possession.¹

Chapter 11

Case No. 19-36300

NOTICE OF DESIGNATION OF STALKING HORSE BIDDER

Walker County Hospital Corporation, d/b/a Huntsville Memorial Hospital (the “**Debtor**”), by and through its undersigned proposed counsel, files this *Notice of Designation of Stalking Horse Bidder*, pursuant to and in accordance with the *Order: (I)(A) Approving Bidding Procedures and Bid Protections, (B) Permitting Debtor to Designate Stalking Horse Purchaser(s) and Grant Bid Protections, (C) Scheduling a Hearing to Consider Approval of the Sale of Assets, (D) Approving Assumption and Assignment Procedures, (E) Approving Form and Manner of Notice of Sale, and (F) Granting Related Relief; and (II)(A) Authorizing and Approving the Sale of Substantially All Assets of the Debtor Free and Clear of Liens, Claims, Interests, and Encumbrances, (B) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (C) Granting Related Relief* (Dkt. No. 67) (the “**Bidding Procedures Order**”) and respectfully states as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the Southern District of Texas (the “**Court**”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of*

¹ The last four digits of the Debtor’s federal tax identification number are: 0960. The location of the Debtor’s service address is: P.O. Box 4001, Huntsville, TX 77342-4001, Attn: Steven Smith.

Texas, dated May 24, 2012. This is a core proceeding under 28 U.S.C. § 157(b)(2). The Debtor confirms its consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedures (the “*Bankruptcy Rules*”), to the entry of a final order by the Court in connection with this Application to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

3. By this notice, the Debtor provides notice: (a) of its designation of Walker County Hospital District and Huntsville Community Hospital, Inc. as a Stalking Horse Bidder, pursuant to and in accordance with the Bidding Procedures Order and on the terms and conditions set forth in the Purchase Agreement and Member Substitution Agreement attached to this notice as **Exhibit A** (the “*Stalking Horse APA*”); and (b) that, subject to the Stalking Horse Objection Process, the Debtor intends to enter into the Stalking Horse APA and grant Bid Protections, as contemplated by the Stalking Horse APA and authorized by the Bidding Procedures Order.

MATERIAL TERMS OF THE STALKING HORSE APA

4. The Stalking Horse APA provides for the purchase of substantially all assets of the Debtor (the “*Proposed Purchased Assets*”), as more specifically set forth in Section 2.1 of the Stalking Horse APA.

5. The consideration to be provided to the Debtor by the Stalking Horse Bidder for the Proposed Purchased Assets is approximately **\$7,650,000** as follows:

- a. A credit bid in the amount of Three Million Dollars (\$3,000,000);
- b. Fifty Thousand Dollars (\$50,000) in cash for the Owned Real Property (other than the Vacant Lot); and

- c. Four Million Six Hundred Thousand Dollars (\$4,600,000) in cash, subject to certain adjustments, for the Accounts Receivable.

6. The Stalking Horse Bidder will also assume certain liabilities, including “Transferable Accrued PTO,” and pay all cure costs.

7. The Stalking Horse APA provides for a break-up fee in the amount of **\$229,500** and an expense reimbursement in an amount up to **\$250,000**.

8. In addition, in accordance with the Stalking Horse APA, the initial overbid for the Proposed Purchased Assets would be **\$8,229,500**, with subsequent rounds of bidding being in \$100,000 increments.

ARGUMENT

9. On November 14, 2019, this Court entered the Bidding Procedures Order, approving, among other things certain bidding and auction procedures for the Proposed Purchased Assets.

10. Since entry of the Bidding Procedures Order, the Debtor has negotiated and entered into the Stalking Horse APA, which provides for the purchase of substantially all assets of the Debtor. The Stalking Horse APA currently represents the highest or otherwise best offer for the Proposed Purchased Assets, but the Stalking Horse Bidder has agreed to subject the Stalking Horse APA to higher or otherwise better offers, pursuant to the Bidding Procedures Order and as set forth in the Stalking Horse APA. The Stalking Horse APA complies with the terms of the Bidding Procedures Order.

11. Having a stalking horse purchaser for the Proposed Purchased Assets will benefit the Debtor, for the reasons set forth in the motion for entry of the Bidding Procedures Order and as set forth by this Court in the Bidding Procedures Order.

12. Under the Stalking Horse Objection Process, if no objections are filed to this notice within two (2) business days, the Debtor shall be authorized to enter into the Stalking Horse APA and grant Bid Protections as contemplated by the Stalking Horse APA and authorized by the Bidding Procedures Order.

RESERVATION OF RIGHTS

13. Nothing contained in this notice or any actions taken by the Debtor pursuant to relief granted in the Bidding Procedures Order is intended or should be construed as: (a) an admission as to the validity, priority, or amount of any particular claim against the Debtor; (b) a waiver of the Debtor's or any other party-in-interest's rights to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this notice; (e) an admission that any assumed contract or lease is an executory contract or unexpired lease within the purview of section 365 of the Bankruptcy Code or a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver or limitation of the Debtor's or any other party-in-interest's right under the Bankruptcy Code or any other applicable law.

NOTICE

14. Notice of this notice of designation of a stalking horse bidder has been provided to: (a) the Office of the United States Trustee for the Southern District of Texas; (b) the holders of the twenty (20) largest unsecured claims against the Debtor; (c) the Debtor's secured creditors; (d) counsel to any statutory committee appointed in this case; (e) the Office of the United States Attorney's Office for the Southern District of Texas; (f) the Internal Revenue Service; (g) the Office of the Attorney General for the State of Texas; (h) counsel to any Stalking Horse Bidder; (i) all parties who have expressed a written interest in some or all of the Debtor's assets; (j) all

known holders of liens, encumbrances, and other claims secured by the Debtor's assets; (k) each governmental agency that is an interested party with respect to the proposed sale of the Debtor's assets; (l) all known creditors of the Debtor; and (m) all parties that have requested or that are required to receive notice under Rule 2002 of the Bankruptcy Rules.

15. The Debtor respectfully submits that no further or other notice is required.

DATED: November 22, 2019

Respectfully submitted,

WALLER LANSDEN DORTCH & DAVIS, LLP

/s/ Evan J. Atkinson

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Proposed Counsel for the Debtor and Debtor in Possession

Certificate of Service

I certify that on November 22, 2019, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Evan J. Atkinson
Evan J. Atkinson

Exhibit A
Stalking Horse APA